

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Appl. No. : 10/526,081
Applicant(s): Markus Lazeroms, et al.
Filed: February 28, 2005
TC/A.U.: 2800/2863
Examiner: Xiuqin Sun
Atty. Docket: NL 020786
Title: SYSTEM FOR IDENTIFYING A PERSON

AMENDMENT and/or RESPONSE UNDER 37 C.F.R. § 1.111

Mail Stop—Non Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action of March 15, 2007, please amend the above referenced application as follows and reconsider the application in light of the following remarks.

This paper includes (each beginning on a separate sheet):

- 1. Amendments to the Claims;**
- 2. Remarks/Discussion of Issues;**

1. Amendments to the Claims:

A listing of the entire set of pending claims (including amendments to the claims, if any) is submitted herewith per 37 CFR 1.121. This listing of claims will replace all prior versions, and listings, of claims in the application.

Listing of Claims:

1. (Currently Amended) System for identifying a person, comprising:

means for detecting a distribution of pressures, exerted by at least one foot (20) of the person on a surface, means for storing data of a number of persons, said data comprising a detected pressure distribution pattern (A,B,C) and an associated person identification code (X,Y,Z), and means for comparing a detected pressure distribution pattern (A) with stored pressure distribution patterns (A,B,C) until a match of pressure distribution patterns is found.

2. (Currently Amended) System according to claim 1, ~~characterized in that~~wherein the pressure distribution detecting means comprise a matrix sensor (40).

3. (Currently Amended) System according to claim 1 ~~characterized in that~~wherein said surface comprises a platform (10) for receiving at least one foot (20) of the person, the pressure distribution detecting means (40) comprising a layer implemented in the platform (10).

4. (Currently Amended) System according to claim 1, ~~characterized in that~~wherein the pressure distribution detecting means (40) comprise a matrix of electrical

contacts, with a rubber having a pressure-dependent conductivity being placed between these contacts.

5. (Currently Amended) System according to claim 1, ~~characterized in that~~wherein the means for storing detected pressure distribution patterns comprise a processor (50) having a storage medium (51).

6. (Currently Amended) System according to claim 5, ~~characterized in that~~wherein the processor (50) further comprises a comparator (52) for comparing a detected pressure distribution pattern (A) with the stored pressure distribution patterns (A,B,C).

7. (Currently Amended) System according to claim 1, ~~characterized in that~~wherein it comprises a system for identifying a user of a weighing device (1).

8. (Currently Amended) A method of identifying a person, ~~characterized in that~~wherein said method comprises the steps of: detecting a distribution of pressures, exerted by at least one foot (20) of the person on a surface, storing data of a number of persons, said data comprising a detected pressure distribution pattern (A,B,C) and an associated person identification code (X,Y,Z), and comparing a detected pressure distribution pattern (A) with stored pressure distribution patterns (A,B,C), until a match of pressure distribution patterns is found.

9. (Currently Amended) A method as claimed in claim 8, ~~characterized in that~~wherein said method is a method of identifying a user of a weighing device (1).

10. (New) A system for identifying a person, comprising:
- a weighing device adapted to detect a distribution of pressures exerted by at least one foot of the person on a surface;
 - a storage medium operative to store data of a number of persons, wherein the data comprise stored pressure distribution patterns and associated person identification codes; and
 - a processor adapted to compare a detected pressure distribution pattern with the stored pressure distribution patterns until a match of pressure distribution patterns is found.
11. (New) A system as claimed in claim 10, wherein the weighing device further comprises a matrix sensor.
12. (New) A system according to claim 11, wherein the surface comprises a platform adapted to receive at least one foot of the person, and the matrix sensor comprises a layer implemented in the platform.
13. (New) A system according to claim 11, wherein the matrix sensor comprises a matrix of electrical contacts, and a layer having a pressure-dependent conductivity disposed between the contacts.
14. (New) A system according to claim 10, wherein the processor further comprises a comparator.
15. (New) A method of identifying a person, the method comprising:

detecting a distribution of pressures, exerted by at least one foot (20) of the person on a surface, storing data of a number of persons, wherein the data comprises a detected pressure distribution pattern and an associated person identification code, and comparing the detected pressure distribution pattern with stored pressure distribution patterns, until a match of pressure distribution patterns is found.

16. (New) A method as claimed in claim 8, wherein the method further comprises identifying a user of a weighing device.

REMARKS / DISCUSSION OF ISSUES

Claims 1-16 are presented for consideration. Claims 10-16 are new.

Claims are amended for non-statutory reasons, such as to replace European phraseology. No new matter is added.

Objection to the Claims

The objections to the claims are moot in view of the present amendment to claims 1-9.

Rejections under 35 U.S.C. § 101

The Office Action rejects claims 1-9 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. The Examiner directs Applicants to an OG Notice from 2005.

Applicants respectfully traverse these rejections for at least the following reasons.

The Office Action states that

3. Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claims 1 and 8 appear to be directed to an algorithm for matching pressure distribution pattern. The claims do not produce any tangible results. The practical application of the claimed invention cannot be realized until the output is conveyed to the user. For the result to be tangible it would need to output to a user or displayed to a user or stored for later use. Hence the claims are treated as non-statutory subject matter (See MPEP Sec. 2106). Claims 2-7 and 9 are rejected under 35 U.S.C. 101 base on dependency.

The USPTO Official Gazette Notice dated 22 November 2005, entitled *“Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility”* (“the OG Notice”) merely contains guidelines for patent examiners, and like the MPEP, does not have the full force and effect of law (see the OG Notice, Section I, second paragraph). This notwithstanding, the undersigned attorney has thoroughly reviewed these guidelines and respectfully submits that the rejections of claims 1-9 are not compliant with those guidelines.

At the outset, Section IV of the OG Notice explains in detail the procedures to be followed to determine whether a claimed invention complies with the subject matter eligibility requirement of 35 U.S.C. § 101. The only references to “tangible results” in this procedure appear under Step IV(C) – *“Determine Whether the Claimed Invention Falls Within Sec. 101 Judicial Exceptions – Laws of Nature, Natural Phenomena and Abstract Ideas.”* Not surprisingly, the first thing the Examiner must do under Step IV(C) is to *“determine whether [a claim] covers either a Sec. 101 judicial exception or a practical application of a Sec. 101 judicial exception.”* Only if such a determination is made, does the analysis then proceed to determine if the claimed subject matter is nevertheless still patentable subject matter, for example, because: (1) the claim provides a physical transformation (Step IV(C)(1)(a)); or (2) the claims produces a useful, concrete, and tangible result (Step IV(C)(1)(b)).

Here, the Office Action does not even attempt to determine whether any or all of claims 1-9 cover either a Sec. 101 judicial exception (Law of Nature, Natural Phenomenon, or Abstract Idea) or a practical application of a Sec. 101 judicial exception. Rather, the claims are dismissed as appearing to be directed to an algorithm for matching a pressure distribution, with no analysis or explanation supporting the position that this is a judicial exception. Indeed, Applicant

respectfully submits that none of the claims 1-9 cover any law of nature, natural phenomenon, or abstract idea.

Claims 1-9 are drawn to a system and method for identifying a person. The system method do not cover any law of nature, natural phenomenon, or abstract idea. Accordingly, the entire analysis as to where the claims “*produce a tangible result*” is not even pertinent under the Guidelines, because the claims are not even directed to any Sec. 101 judicial exception in the first place.

Furthermore, even *if* any of the claims 1-9 were directed to a Sec. 101 judicial exception, the Guidelines specifically state that this does not mean that the claim must be tied to a particular machine or apparatus. So there can be no requirement that the “result” of the claimed process must be stored or displayed. Furthermore, the OG Notice defines “tangible” as being the opposite of “abstract.” All that is required is that the claim must set forth a practical application to produce a real-world result. Here, the claims all are practical applications producing the real-world result of identifying a person. More and more techniques there is a need for identifying a person based on certain physical characteristics. Thus, Applicants submit that rather than an abstract result, a tangible result of identifying a person, a real-world result, is provided. Accordingly, assuming arguendo that claims 1-9 were directed to a Sec. 101 judicial exception, the final result at the very least is a tangible result.

Accordingly, for at least these reasons, Applicants respectfully submit that claims 1-9 are all patentable under 35 U.S.C. § 101.

Rejections under 35 U.S.C. § 102

Claims 1-3, 5, 6 and 8 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Speeter* (U.S. Patent 5,479,528). For at least the reasons set forth herein, Applicants respectfully submit that this rejection is improper and should be withdrawn.

At the outset Applicants rely at least on the following standards with regard to proper rejections under 35 U.S.C. § 102. Notably, a proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990). Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

Claim 1 is drawn to a system for identifying a person, and features:
“...means for detecting a distribution of pressures, exerted by at least one foot of the person on a surface, means for storing data of a number of persons, said data comprising a detected pressure distribution pattern and an associated person identification code, and means for comparing a detected pressure distribution pattern with stored pressure distribution patterns until a match of pressure distribution patterns is found.”

Claim 10 is also drawn to a system for identifying a person and features:
“...a weighing device adapted to detect a distribution of pressures exerted by at least one foot of the person on a surface;...and a processor adapted to compare a detected pressure distribution pattern with the stored pressure distribution patterns until a match of pressure distribution patterns is found.”

Claims 8 and 15, which are drawn to a method of identifying a person include similar features to claims 1 and 10, respectively.

The Office Action directs Applicants to the Abstract, column 3, lines 1-3 and column 9, lines 24-32 of *Speeter* for the alleged disclosure of the noted features of claims 1 and 8. Applicants respectfully disagree.

The reference to *Speeter* discloses force application to a tactile array (touch array) that produces electrical signals. In connection with Fig. 4, the reference discloses piezoresistive and capacitive tactile (touch) arrays. These relate to force calculations on intelligent work surfaces. There is no description of the detecting *pressure distributions* and comparing these *pressure distributions* with stored *pressure distributions*.

Accordingly, the reference to *Speeter* fails to disclose at least one feature of each of claims 1, 8, 10 and 15; and one of ordinary skill in the art would recognize at least one difference between the features of the claims and the reference disclosure.

Because the reference to *Speeter* fails to disclose at least one feature of the independent claims, a prima facie case of anticipation has not been established. Therefore, claims 1, 8, 10 and 15 are patentable over the applied art. Moreover, claims 2-7, 9, 11-5 and 116, which depend from claims 1, 8, 10 and 15, respectively are patentable as a matter of law.

Rejections under 35 U.S.C. § 103

Applicants have considered the rejection of claims 4,7 and 9 in view of *Speeter* and *Wymore*. While Applicants by no means concede the propriety of the rejection, Applicants respectfully submit that the rejection is moot and that claims 4,7 and 9 are patentable over the applied art for at least the same reasons as their respective independent claims.

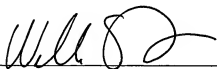
Conclusion

In view of the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies to charge payment or credit any overpayment to Deposit Account Number 50-0238 for any additional fees, including, but not limited to, the fees under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
Phillips Electronics North America Corp.



by: William S. Francos (Reg. No. 38,456)

Date: June 15, 2007

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Electronic Patent Application Fee Transmittal

Application Number:	10526081			
Filing Date:	28-Feb-2005			
Title of Invention:	System for identifying a person			
First Named Inventor/Applicant Name:	Markus Cornelis Jakobus Lazeroms			
Filer:	Adam L. Stroud/Daniel L. Michalek			
Attorney Docket Number:	NL 020786			
Filed as Large Entity				
U.S. National Stage under 35 USC 371 Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				
Extension - 1 month with \$0 paid	1251	1	120	120

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Total in USD (\$)				120

Electronic Acknowledgement Receipt

EFS ID:	1881348
Application Number:	10526081
International Application Number:	
Confirmation Number:	8321
Title of Invention:	System for identifying a person
First Named Inventor/Applicant Name:	Markus Cornelis Jakobus Lazeroms
Customer Number:	24737
Filer:	Adam L. Stroud/Daniel L. Michalek
Filer Authorized By:	Adam L. Stroud
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Application Type:	U.S. National Stage under 35 USC 371

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The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows:
Charge any Additional Fees required under 37 C.F.R. Section 1.16 and 1.17

File Listing:

Document Number	Document Description	File Name	File Size(Bytes)	Multi Part /.zip	Pages (if appl.)				
1		NL020786-AMD-Francos-2007JUN15.pdf	444960	yes	12				
	Multipart Description/PDF files in .zip description								
	Document Description	Start		End					
	Amendment - After Non-Final Rejection	1		2					
	Claims	3		6					
	Applicant Arguments/Remarks Made in an Amendment	7		12					
Warnings:									
Information:									
2	Fee Worksheet (PTO-06)	fee-info.pdf	8172	no	2				
Warnings:									
Information:									
Total Files Size (in bytes):			453132						
<p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p>									